



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Gregory P. Ennis, M.D.

Respondent Name

Old Republic Insurance Company

MFDR Tracking Number

M4-16-1428-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

January 28, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The total charges for the MMI/IR with 2 units of IR combined by the treating doctor, using one ROM method, is \$680.41 per 28TAC par 2 134.204 (j) (4) (C) and (D) (i) (III)."

Amount in Dispute: \$157.01

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "In this matter, Requestor was paid correctly for the MMI portion of the examination using DWC Rule 134.204(e)(6)(C)(I)..."

With regard to the impairment rating examination, Requestor was reimbursed for one musculoskeletal body area as defined by DWC Rule 134.204(e)(6)(D)(iii)(I)...

While Requestor also assigned an impairment rating for 'Class I Mental/Behavioral Disorder,' Requestor did not bill for this impairment rating. Per DWC Rule 134.204(e)(6)(D)(iv), when billing for a non-musculoskeletal body area, the appropriate CPT code for the tests required to assign the impairment rating, shall be used. This includes mental and behavioral disorders. Because Requestor did not bill for the testing used to evaluate the impairment rating of the mental /behavioral disorder, reimbursement is not owed for this evaluation."

Response Submitted by: Downs-Stanford, P.C.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: June 29, 2015, Treating Doctor Examination to Determine Maximum Medical Improvement & Impairment Rating, \$157.01, \$124.20

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
  - 247 – A payment or denial has already been recommended for this service.
  - PI – These are adjustments initiated by the payer, for such reasons as billing errors or services that are considered not reasonable or necessary.

## **Issues**

1. What is the maximum allowable reimbursement (MAR) for the disputed services?
2. Is the requestor entitled to additional reimbursement?

## **Findings**

1. Per 28 Texas Administrative Code §134.204(j)(3),

The following applies for billing and reimbursement of an MMI evaluation.

- (A) An examining doctor who is the treating doctor shall bill using CPT Code 99455 with the appropriate modifier.
  - (i) Reimbursement shall be the applicable established patient office visit level associated with the examination.
  - (ii) Modifiers "V1", "V2", "V3", "V4", or "V5" shall be added to the CPT code to correspond with the last digit of the applicable office visit.

The submitted documentation supports that the requestor performed an evaluation of Maximum Medical Improvement and billed procedure code 99455 with modifier V5. Modifier V5 corresponds with the established patient office visit represented by procedure code 99215. Reimbursement for this code is determined in accordance with 28 Texas Administrative Code §134.203.

28 Texas Administrative Code §134.203(c) states,

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...

The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. The Division conversion factor for 2015 is \$56.20.

For procedure code 99215 on June 29, 2015, the relative value (RVU) for work of 2.11 multiplied by the geographic practice cost index (GPCI) for work of 1.000 is 2.110000. The practice expense (PE) RVU of 1.82 multiplied by the PE GPCI of 0.920 is 1.674400. The malpractice (MP) RVU of 0.16 multiplied by the MP GPCI of 0.822 is 0.131520. The sum of 3.915920 is multiplied by the Division conversion factor of \$56.20 for a MAR of \$220.07.

Per 28 Texas Administrative Code §134.204(j)(4),

The following applies for billing and reimbursement of an IR evaluation ...

- (C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.
  - (i) Musculoskeletal body areas are defined as follows:
    - (I) spine and pelvis;

- (II) upper extremities and hands; and,
- (III) lower extremities (including feet).
- (ii) The MAR for musculoskeletal body areas shall be as follows...
  - (I) \$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4th edition is used.
  - (II) If full physical evaluation, with range of motion, is performed:
    - (-a-) \$300 for the first musculoskeletal body area; and
    - (-b-) \$150 for each additional musculoskeletal body area.

The submitted documentation supports that the requestor provided an impairment rating, which included a musculoskeletal body part, and performed a full physical evaluation with range of motion of the upper extremities. Therefore, the correct MAR for this examination is \$300.00.

28 Texas Administrative Code §134.204(j)(4) further states, in relevant part, that:

- (D) Non-musculoskeletal body areas shall be billed and reimbursed using the appropriate CPT code(s) for the test(s) required for the assignment of IR.
  - (i) Non-musculoskeletal body areas are defined as follows:
    - (I) body systems;
    - (II) body structures (including skin); and,
    - (III) mental and behavioral disorders...
  - (iv) **When there is no test to determine an IR for a non-musculoskeletal condition** [emphasis added]:
    - (I) The IR is based on the charts in the AMA Guides. These charts generally show a category of impairment and a range of percentage ratings that fall within that category.
    - (II) The impairment rating doctor must determine and assign a finite whole percentage number rating from the range of percentage ratings.
    - (III) Use of these charts to assign an IR is equivalent to assigning an IR by the DRE method as referenced in subparagraph (C)(ii)(I) of this paragraph.
  - (v) **The MAR for the assignment of an IR in a non-musculoskeletal body area shall be \$150** [emphasis added].

Review of the submitted examination narrative finds that the requestor performed impairment rating evaluations of a "Class I Mental/Behavioral Disorder." Therefore, the correct MAR for this examination is \$150.00.

2. The total MAR for the disputed services is \$670.07. The insurance carrier paid \$545.87. An additional reimbursement of \$124.20 is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$124.20.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$124.20 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

Laurie Garnes  
\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

February 29, 2016  
\_\_\_\_\_  
Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**